

It is the right way, and it is the Vermont way. We look forward to our visits every time Marcelle and I come home.

**STATEMENT IN SUPPORT OF DIVISION M OF THE CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT, 2015, THE EXPATRIATE HEALTH COVERAGE CLARIFICATION ACT**

Mr. CARPER. Mr. President, I ask unanimous consent that a statement in support of Division M of the Consolidated and Further Continuing Appropriations Act, 2015, the Expatriate Health Coverage Clarification Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATORS CARPER, TOOMEY, COONS, AND RUBIO IN SUPPORT OF DIVISION M OF THE CONSOLIDATED AND FURTHER CONTINUING APPROPRIATIONS ACT, 2015, THE EXPATRIATE HEALTH COVERAGE CLARIFICATION ACT.

At the end of the last Congress, a bipartisan group of Senators and Members of Congress led by Senators Carper, Toomey, Coons and Rubio, worked together to secure passage of the Expatriate Health Coverage Clarification Act of 2014. That legislation, which was included as Division M of the Consolidated and Further Continuing Appropriations Act, 2015, provides important technical clarifications of how the Patient Protection and Affordable Care Act (ACA) applies to health coverage provided by U.S. insurers to globally mobile employees. It puts those U.S. insurers on equal footing with their foreign counterparts and protects jobs in this country.

As the Administration prepares to begin the rulemaking process to implement the Expatriate Health Coverage Clarification Act, we want to ensure Congressional intent is clear so the Act is implemented properly. We are aware the Congressional Record already contains two statements that reflect Congressional intent on certain elements of the Expatriate Health Coverage Clarification Act, but further explanation will aid the Administration in its implementation efforts.

The issues that we seek to clarify today are: relief from the ACA's health insurer fee, the effective date of the Expatriate Health Coverage Clarification Act, treatment of groups of similarly situated individuals (including student and religious missionary groups), who to take into account when determining enrollment in expatriate health insurance plans, locations where expatriate plans must provide coverage for qualified expatriates assigned or transferred to the United States, actuarial value, and reporting requirements.

One important clarification relates to the application of the health insurer fee established in section 9010 of the ACA to expatriate health insurance plans. Under the Expatriate Health Coverage Clarification Act, premiums with respect to persons covered by qualified expatriate health insurance plans are not included in the calculation of the amount of that issuer's share of the health insurance fee. To make certain that the intent of that provision is abundantly clear, we want to iterate that no health insurer fee will be owed with respect to expatriate health insurance plans for 2016 and beyond.

Additionally, in implementing the special rule related to the health insurer fee for 2014

and 2015, it is the intent of Congress that the Internal Revenue Service (IRS) assess less than the full "applicable amount" otherwise specified in ACA section 9010 for 2014 and 2015, and that it refund or credit any excess funds already paid by expatriate health insurance issuers for 2014.

In addition to those important clarifications, we believe additional clarifications will further ensure appropriate implementation of the Expatriate Health Coverage Clarification Act.

The Expatriate Health Coverage Clarification Act became law on December 16, 2014. The legislative language provides that the Act takes effect upon enactment and applies to expatriate health plans issued or renewed on or after July 1, 2015, unless otherwise specified. It is important to clarify that Congressional intent is to provide immediate relief to U.S. issuers of expatriate health insurance plans effective on the date of enactment, and for the additional requirements imposed by the Act to apply only to plans issued or renewed on or after July 1, 2015, to give the Administration time to issue guidance on these new requirements.

Another clarification relates to the treatment of "groups of similarly situated individuals," which includes student and religious missionary groups, under the Expatriate Health Coverage Clarification Act. Congress does not intend every student or religious missionary or other similarly situated group to have to endure a lengthy approval process through which the Secretary of Health and Human Services, the Secretary of the Treasury and the Secretary of Labor determine that international health care coverage is appropriate for the group. Rather, if a health plan meets the requirements of being an expatriate health plan and a group of similarly situated individuals meets the requirements of eligibility to purchase such a plan, we expect that these groups can purchase plans as expeditiously as possible. We expect the Secretaries will issue guidance on this matter that is consistent with the language of the Expatriate Health Coverage Clarification Act for these groups to access health insurance and other related services and support in multiple countries.

The Expatriate Health Coverage Clarification Act limits its relief to expatriate health plans that meet the standards established in the law. One of those standards is that "[s]ubstantially all of the primary enrollees in such plan or coverage are qualified expatriates . . ." It is important to clarify that Congress does not intend for individuals who are enrolled in COBRA or other continuation coverage under the plan to be taken into account when determining whether substantially all of the primary enrollees are qualified expatriates.

Another standard is that where an expatriate health plan provides coverage for qualified expatriates who are transferred or assigned to the United States, the plan must provide certain coverages in ". . . such other country or countries as the Secretary of Health and Human Services, in consultation with the Secretary of the Treasury and the Secretary of Labor, may designate (after taking into account the barriers and prohibitions to providing health care services in the countries as designated)." It is important to clarify that Congress does not intend that expatriates in foreign countries receive duplicate or unnecessary health insurance coverage. Instead, the Secretaries should promulgate guidance establishing that, by virtue of having U.S.-issued expatriate health coverage, qualified expatriates need the full benefits and protections of the Expatriate Health Coverage Clarification Act in such locations as are necessary for the individual to perform his/her job responsibilities.

The Expatriate Health Coverage Clarification Act says that plan sponsors must reasonably believe that "the benefits provided by the expatriate health plan satisfy a standard at least actuarially equivalent to the level provided for in section 36B(c)(2)(C)(ii) of the Internal Revenue Code." The intent of Congress is to require expatriate health coverage to meet the minimum-value as it is delineated in the Internal Revenue Code 36B(c)(2)(C)(ii). We believe the law allows for employers and issuers to retain the flexibility to design and offer plans with a higher value as they may determine necessary and appropriate to meet the needs and circumstances of their covered population.

Finally, there is the issue of reporting requirements. The ACA added section 6055 to the Internal Revenue Code, which provides that every provider of minimum essential coverage will report coverage information by filing an informational return with the IRS and furnishing a statement to individuals. The information is used by the IRS to administer, and individuals to show compliance with, the ACA's individual shared responsibility provision. It is Congress's intent that any additional reporting that may be required as a result of the Expatriate Health Coverage Clarification Act or related guidance should be kept as minimal as possible, recognize the unique nature of expatriate health plans, and be incorporated into the existing requirements under section 6055. Should future laws or regulations streamline the reporting requirements for domestic health plans, we expect that this relief be provided equally to expatriate health plans.

We believe these are important clarifications that will ensure the Expatriate Health Coverage Clarification Act is implemented consistent with Congressional intent and will permit U.S.-based expatriate health insurance issuers to compete with their foreign counterparts.

**RECOGNIZING FLIGHT OFFICER WILLIAM A. COLBERT, JR., OF THE TUSKEGEE AIRMEN**

Mr. CARDIN. Mr. President, I wish to recognize Flight Officer William August Colbert, Jr., for his honorable service to the United States as a member of the famed Tuskegee Airmen. Mr. Colbert is a lifelong Marylander who was born in Annapolis and attended Anne Arundel County public schools, graduating from Wiley H. Bates High School. Upon his graduation, he joined the Civilian Conservation Corps and was stationed in Allegany County, MD where he met and married his wife, the late Vivian Lee Colbert. He ultimately made Cumberland his home.

After spending time working in the Baltimore shipyards, Mr. Colbert enlisted in the Army Air Force in 1943 and achieved the rank of flight officer at the Tuskegee Army Air Field. He was alerted for overseas duty on two occasions, but the war ended prior to his deployment. While Mr. Colbert never saw combat, he learned to fly with the best, and became a Red Tail. Mr. Colbert has always considered his contribution to the Tuskegee Airmen as what he was called to do as a U.S. citizen. He did so without expectation of fame or fanfare.

When Mr. Colbert returned to Cumberland after his military service, he worked as a tire builder for the Kelly-